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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/091,065  
Filing Date March 4, 2002  
Appellant(s): Andres Vinberg

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Anders Vinberg  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 01/19/10 appealing from the Advisory Action mailed 04/13/09 and the Final Office Action mailed on 12/31/08.

**(1) *Real Party in Interest***

A statement identifying by name the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying by name the real party in interest is contained in the brief.

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

10091065 and 09949101

**(3) *Status of Claims***

The statement of the status of claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Claimed Subject Matter***

The summary of claimed subject matter contained in the brief is correct.

**(6) *Grounds of Rejection to be Reviewed on Appeal***

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) *Claims Appendix***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) *Evidence Relied Upon***

5,367,670	Ward et al	11-1994
6,603,396	Lewis et al	8-2003
5,745,692	Lohmann II et al	4-1998
6,021,262	Cote et al	2-2000
4,881,197	Fischer	11-1989
6,037,099	Sabourin et al	3-2000
6,421,707	Miller et al	7-2002
6,161,082	Goldberg et al	12-2000
2001/0044840	Carleton	11-2001
2004/0210469	Jones et al	10-2004
6,185,613	Lawson et al	2-2001

**(9)      *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

1.      This action is responsive to the amendment and remarks filed on September 25, 2008.
2.      Claims 1, 3-11, 13, 15 and 17-24 are presented for examination, and claims 2, 12, 14 and 16 are canceled.
3.      The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

*Claim Rejections - 35 USC 103*

4.      Claims 1, 4, 13, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al, U.S. Patent 5,367,670 (hereinafter Ward) and Lewis et al, U.S. Patent 6,603,396 (hereinafter Lewis) in view of Lohmann II et al, U.S. Patent 5,745,692 (hereinafter Lohmann).
5.      Ward, Lewis and Lohmann were cited in the previous office action.
6.      As per claims 1, 13 and 15, Ward teaches the invention substantially as claimed comprising:

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detecting an alert condition identifying a problem with a system component (col. 5, lines 15-20), the alert condition being detected in response to an event notification (col. 12, lines 24-26, 34-37) associated with at least one of a plurality of heterogeneous application subsystems (col. 5, lines 13-20; col. 7, lines 1-8) each application subsystem in the plurality of heterogeneous application subsystems performing an associated one or more information technology management operations that are distinct from the one or more information technology management operations performed by other application subsystems in the plurality of heterogeneous application subsystems (col. 5, lines 51-65) (e.g., asynchronous serial port, computer system bus 13 reports signal utilized for object management to indicate alert, intelligent disk array controller reports read errors (col. 7, lines 1-8), and server subsystems);

determining a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition (col. 5, lines 21-27), the object being stored in an object repository (col. 4, lines 8-13; col. 12, lines 12-20);

constructing an audio notification message based on at least one parameter associated with the alert condition (col. 5, lines 21-32; col. 7, lines 56-57; col. 9, lines 11-14; col. 12, lines 34-64); and

outputting the audio notification message via the notification path (col. 7, lines 25-57; col. 12, lines 62-64).

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7. Ward does not teach filtering alert condition. Lewis teaches filtering alert condition to determine a notification path associated with the alert condition (col. 6, lines 40-49; col. 6, line 63-col. 7, line 34).

8. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Lewis because Lewis's teaching would allow Ward's system to filter irrelevant alarms in order to maximize performance and reliability of the system (col. 7, lines 59-65).

9. Ward and Lewis do not teach an audio command. Lohmann teaches a similar invention comprising: receiving an audio command (col. 2, lines 7-8; col. 5, lines 44-46; col. 6, lines 4-9); processing the audio command to derive command data (col. 2, lines 8-9; col. 6, lines 4-12); constructing a command based on the command data (col. 2, lines 8-9; col. 9, lines 40-42); and storing the command in the object repository (col. 2, lines 6-12; col. 9, lines 17-27, 43-45) (stores and processes the command).

10. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, and Lohmann because Lohmann's teaching of audio command would increase the capability of Ward's and Lewis's system by allowing a system administrator respond to the alert message via voice commands (col. 1, lines 22-26; col. 4, lines 58-61).

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11. As per claim 4, Ward, Lewis and Lohmann teach the invention substantially as claimed in claim 1 above. Ward further teach wherein detecting an alert condition includes detecting an alert condition within a plurality of subsystems of a network management application (col. 7, lines 19-24).

12. As per claim 20, Ward, Lewis and Lohmann teach the invention substantially as claimed in claim 1 above. Lohmann further teach constructing an additional audio notification message if the audio notification message is not responded to within a designated time limit (abstract; col. 1, lines 52-61).

13. Claims 9, 17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis and Lohmann in view of Cote et al, U.S. Patent 6,021,262 (hereinafter Cote).

14. Cote was cited in the previous office action.

15. As per claim 9, Ward, Lewis and Lohmann teach the invention substantially as claimed in claim 1 above. Although Ward teaches wherein the determining the notification path includes analyzing a parameter associated with the alert condition and selecting the notification path based on the parameter (col. 5, lines 33-45; col. 7, lines 19-27); and the audio notification message is output via the notification path (col. 7, lines 25-57), however, Ward, Lewis and Lohmann do not teach a multi-tiered notification path. Cote teaches a similar invention comprising: a multi-tiered notification path, each tier of the notification path identifying one or



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more users assigned a level of responsibility with respect to the alert condition (col. 7, lines 19-28).

16. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's, Lewis's and Lohmann's systems by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36).

17. As per claim 17, Ward, Lewis and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis and Lohmann do not teach a multi-tiered notification path. Cote teaches comprising a multi-tiered notification path, each tier of the notification path identifying one or more users assigned a level of responsibility with respect to the alert condition (col. 7, lines 19-28); and identifying the occurrence of a prior alert condition that was not responded to, the multi-tier notification path being determined based at least in part on the occurrence of the prior alert condition (col. 7, lines 19-27).

18. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's, Lewis's and Lohmann's systems by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36).

19. As per claim 21, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis, and Lohmann do not teach constructing an additional audio notification if the alert condition is not addressed within a time limit. Cote teaches comprising constructing an additional audio notification message if the alert condition is not addressed within a designated time limit (col. 7, lines 17-27).

20. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's, Lewis's and Lohmann's systems by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36).

21. As per claim 22, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Although Ward teaches the audio notification is output via the notification path (col. 7, lines 25-57), however Ward, Lewis, and Lohmann do not teach multi-tiered notification path. Cote teaches a similar invention comprising: a multi-tiered notification path, each tier of the notification path identifying one or more users assigned a level of responsibility with respect to the alert condition (col. 7, lines 19-28); and filtering the notification message such that at least one user on the multi-tiered notification path does not receive the notification message (col. 7, lines 19-27) (i.e. the manager (notification path) does not receive the notification message).

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22. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's, Lewis's and Lohmann's systems by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36).

23. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis and Lohmann in view of Fischer, U.S. Patent 4,881,197 (hereinafter Fischer).

24. Fischer was cited in the last office action.

25. As per claim 5, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis and Lohmann do not teach defining audio characteristics. Fischer teaches defining audio characteristics associated with the audio notification message (col. 3, lines 38-42; col. 4, lines 3-21; col. 8, lines 31-45).

26. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Fischer because Fischer's teaching of defining audio characteristics would increase the user's flexibility of Ward's, Lewis's and Lohmann's systems by allowing a user with a flexible and efficient mechanism for simultaneously utilizing the highlighting features distinctive to each particular device on which the document or message is displayed or produced (col. 4, lines 3-7).

27. As per claim 6, Ward, Lewis, Lohmann and Fischer teach the invention substantially as claimed in claim 5 above. Fischer further teach wherein the audio characteristic is a volume (col. 3, lines 38-42; col. 4, lines 3-21; col. 8, lines 31-45).

28. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Fischer for the same reason set forth in claim 5 above.

29. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis, and Lohmann in view of Sabourin et al, U.S. Patent 6,037,099 (hereinafter Sabourin).

30. Sabourin was cited in the last office action.

31. As per claim 3, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis, and Lohmann do not teach identifying a portion of the message that is likely to be difficult to understand. Sabourin teaches wherein constructing an audio notification message includes identifying a portion of the message that is likely to be difficult for a user to understand and replacing the identified portion with a more easily understood synonym (col. 10, line 60-col. 11, lines 8).

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32. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Sabourin because Sabourin's teaching of identifying a portion of the message that is likely to be difficult to understand would increase the alertness in Ward's, Lewis's and Lohmann's systems by allowing the system to find and replace words that tend to cause high confusability (col. 10, line 60-col. 11, line 8).

33. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis and Lohmann in view of Miller et al, U.S. Patent 6,421,707 (hereinafter Miller).

34. Miller was cited in the last office action.

35. As per claim 8, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis, and Lohmann do not teach the audio message presented in accordance with a filter. Miller teaches wherein the audio messages presented in accordance with a filter (col. 6, lines 30-40).

36. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Miller because Miller's teaching of audio messages presented in accordance with a filter would increase the user's flexibility in Ward's, Lewis's and Lohmann's systems by allowing a user to determine

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how individual or groups of messages are handled, depending upon characteristics of the messages themselves (col. 6, lines 31-33).

37. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis, and Lohmann in view of Goldberg et al, U.S. Patent 6,161,082 (hereinafter Goldberg).

38. Goldberg was cited in the last office action.

39. As per claim 11, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis, and Lohmann do not teach audio message based on language preference. Goldberg teaches wherein constructing the audio notification message includes:

determining a user associated with the audio notification message (col. 3, lines 34-56; col. 5, lines 22-24);

determining a language preference associated with the user (col. 3, lines 34-56; col. 5, lines 1-13, 25-34; col. 6, lines 27-28); and

constructing the audio message based on the language preference (col. 3, lines 34-56; col. 6, lines 34-38).

40. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Goldberg because Goldberg's teaching of audio message based on the language preference would increase the functionality of Ward's, Lewis's, and Lohmann's systems by providing supports to multiple user

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and to translate communication inputs that are received in any of a wide variety of languages into communication outputs that are transmitted in any of a wide variety of languages (col. 2, lines 45-50).

41. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis, Lohmann and Fischer in view of “Official Notice”.

42. As per claim 7, Ward, Lewis, Lohmann and Fischer teach the invention substantially as claimed in claim 5 above. Ward, Lewis, Lohmann and Fischer do not specifically detailing different audio characteristics. “Official Notice” is taken for the concept of a balance as an audio characteristic is known and accepted in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include balance as an audio characteristic because by doing so would increase the user’s flexibility by allowing a user to include any type of audio characteristics as a design choice.

43. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis, and Lohmann in view of Cote and further in view of Carleton, U.S. Patent Application Publication 2001/0044840 (hereinafter Carleton).

44. Carleton was cited in the last office action.

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45. As per claim 10, Ward, Lewis, Lohmann and Cote teach the invention substantially as claimed in claim 9 above. Ward, Lewis, Lohmann and Cote do not teach an escalation list. Carleton teaches wherein determining the notification path includes analyzing an escalation list (page 1, paragraph 9; page 3, paragraph 53).

46. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann, Cote and Carleton because Carleton's teaching of escalation list would increase the alertness of their systems by providing a mechanism by which a problem can receive increasing levels of attention to expedite and assure proper remediation (page 1, paragraph 9).

47. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis, and Lohmann in view of Cote, and further in view of Jones et al, U. S. Patent Application Publication 2004/0210469 (hereinafter Jones).

48. Jones was cited in the last office action.

49. As per claims 18 and 19, Ward, Lewis, and Lohmann teach the invention substantially as claimed in claim 1 above. Ward, Lewis and Lohmann do not teach a multi-tiered notification path. Cote teaches a similar invention comprising: a multi-tiered notification path, each tier of the notification path identifying one or more users assigned a level of responsibility with respect to the alert condition (col. 7, lines 19-28).



50. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's, Lewis's and Lohmann's systems by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36).

51. Ward, Lewis, Lohmann, and Cote do not teach assigning the level of responsibility based upon the severity of the alert. Jones teaches assigning the level of responsibility to each of the one or more user based upon the severity of the alert condition (severity of the work repair associated with a component) (page 2, paragraphs 29 and 33; page 9, paragraph 119).

52. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann, Cote and Jones because Jones's teaching of assigning the level of responsibility based upon the severity (severity of the work repair associated with a component) would increase the flexibility of their systems by controlling which management level or personnel will receive the alerting message based on the escalation level (page 3, paragraph 45).

53. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Lewis, Lohmann, Cote and in view of Lawson et al, U. S. Patent 6,185,613 (hereinafter Lawson).

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54. Lawson was cited in the last office action.

55. As per claim 23, Ward, Lewis, Lohmann and Cote teach the invention substantially as claimed in claim 22 above. Ward, Lewis, Lohmann and Cote do not teach filtering based on a property associated with an object associated with the alert condition. Lawson teaches comprising filtering the notification message based on a property associated with an object associated with the alert condition (col. 5, lines 35-53).

56. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, Lohmann, Cote and Lawson because Lawson's teaching of filtering based on a property associated with an object associated with the alert condition would increase the efficiency of their system by allowing a event consumer to prevent notification of irrelevant event (col. 5, lines 35-37).

57. As per claim 24, Ward, Lewis, Lohmann, Cote and Lawson teach the invention substantially as claimed in claim 23 above. Although Lawson teaches wherein the property is selected from the group consisting of a type of the object (col. 5, lines 35-53), a name of the object (col. 10, lines 33-37), a location of the object (col. 5, lines 35-53), the time of day (col. 16, lines 34-35), and any of the information available in the packet (col. 24, lines 36-41), however, Ward, Lewis, Lohmann, Cote and Lawson do not specifically teach the severity of the alert condition, a level of risk, and an importance assigned to the object. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include different

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type of property such as severity, level of risk and importance of the object because by doing so it would increase the field of use in their system.

**(10) Response to Argument**

The examiner summarizes the various points raised by the appellant and addresses replies individually.

Appellant argued that:

- (1) The cited references fail to teach filtering the alert condition to determine a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition and outputting the audio notification message via the notification path.
- (2) The cited references fail to teach alert condition being detected in response to an event notification associated with at least one of a plurality of heterogeneous application subsystems, each application subsystem in the plurality of heterogeneous application subsystems performing an associated one or more information technology management operations that are distinct from the one or more information technology management operations performed by the other application subsystems in the plurality of heterogeneous application subsystems.
- (3) Examiner has not provided adequate reason, either in the cited

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references or in the knowledge general available to one of ordinary skill in the art at the time of Applicant's invention to modify or combine Ward, Lewis, and Lohmann.

(4) Examiner has not provided adequate reason, either in the cited references or in the knowledge general available to one of ordinary skill in the art at the time of Applicant's invention to modify or combine Ward, Lewis and Lohmann with various combination of Cote, Jones, Fischer, Miller, Goldberg, "Official Notice", Carleton and Lawson.

(5) The cited references fail to teach constructing an audio notification message by identifying a portion of the message that is likely to be difficult for a user to understand and replacing the identified portion with a more easily understood synonym recited in claim 3.

(6) The cited references fail to teach assigning the level of responsibility to each of the one or more users based upon a type of object associated with the alert condition.

(7) Examiner has used Appellant's claimed invention as an instruction manual to combining the teachings of Ward, Lewis and Lohmann with various combination of Cote, Jones, Fischer, Miller, Goldberg, "Official Notice", Carleton and Lawson.

58. In reply to argument (1), Ward teaches comprising: determining a notification path associated with the alert condition, the notification path being determined based at least on a

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property of an object associated with the alert condition (col. 5, lines 21-27) and outputting the audio notification message (e.g., voice message via dialing a user's phone) via the notification path (col. 7, lines 25-57; col. 12, lines 62-64). Specifically, Ward teaches the path (i.e., notification path) may be one of four paths shown in figure 2, depending on particular type (property) of actual or potential failure of a system component (object) being monitored associated with an alert (col. 5, lines 21-27). Ward further teach the four path shown in figure 2 include an in-band alert directed to the local network manager console 36 (col. 7, lines 29-33), an out-of-band alert by sending a protocol message to the system manager facility 34, dialing a phone number associated with a pager 56, and by dialing a phone number to phone 58 associated with a person (col. 7, lines 50-57). This means the determination of the path such as "in-band" or "out-of-band" is based (triggered) on report of the type/characteristic (i.e., property of object) associated with potential failure as an alert (i.e., determine a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition) (col. 5, lines 15-20, 26-32) Ward does not teach filtering alert condition. Lewis teaches filtering alert condition to determine a notification path associated with the alert condition (col. 6, lines 40-49; col. 6, line 63-col. 7, line 34). Therefore, the combination of Ward-Lewis-Lohmann teaches filtering the alert condition to determine a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition and outputting the audio notification message via the notification path.

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59. In reply to argument (2), Ward teaches detecting an alert condition identifying a problem with a system component (col. 5, lines 15-20). Specifically, Ward teaches as events are detected, the EISA monitor 110 provides information relating to the object manager for updating the innate objects corresponding to the event (col. 12, lines 24-26). For each update, increment or decrement, the object manager 106 will, in the event that a boundary or threshold has been exceeded, determine that an alert needs to be issued (col. 12, lines 34-37). Ward teaches monitoring various system components (col. 5, lines 13-20) such as server subsystems, asynchronous serial port, the computer system bus 13, and the intelligent disk array controller device 26 (col. 5, lines 51-65; col. 7, lines 1-8). This means the alert condition (alert needs to be issued) being detected in response to an event notification (detected event that provides information to the object manager for update) associated with at least one of a plurality of heterogeneous application subsystems (monitoring associated with various system components such as server subsystems, asynchronous serial port, the computer system bus 13, and the intelligent disk array controller device 26). Ward further teach the computer system bus 13 reports signal utilized for object management to indicate alert (col. 5, lines 51-65) (i.e., information technology management operation), and the intelligent disk array controller device 26 reports the number of read errors that have occurred (col. 7, lines 1-8) (i.e., information technology management operation performed by the intelligent disk array controller device 26 is distinct from the information technology management operation performed by the computer system bus 13). This means the server subsystems, intelligent disk array controller device, etc. are the "heterogeneous application subsystems" as claimed, wherein the intelligent disk array controller device performs IT management operation such as reports the number of read error

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that have occurred (operations that support and manage software application in a information system, i.e., IT management operation).

60. In reply to arguments (3), (4) and (7), as stated in the Ground of Rejections above, "It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Lewis because Lewis's teaching would allow Ward's system to filter irrelevant alarms in order to maximize performance and reliability of the system (col. 7, lines 59- 65)." Specifically, Lewis teaching of filtering out and discarding irrelevant alarms would improve the performance and reliability of only relevant alarm being passed. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Using the teaching of Lewis, one of ordinary skill in the art can modify Ward's system by programming Ward's system to filter irrelevant alerts, hence the performance of reporting failure and the reliability of indicating a potential failure would improve in Ward's system. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Similarly, as stated above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Lewis, and Lohmann because Lohmann's teaching of audio command would increase the capability of Ward's and Lewis's system by allowing a system administrator respond to the alert message via voice commands (col. 1, lines 22-26; col. 4, lines 58-61). Using Lohmann's teaching of audio command, a user such as an administrator in Ward's and Lewis's systems would be capable of giving voice instruction in response to potential failure. Furthermore, one of ordinary skill in the art can modify the systems of Ward and Lewis by incorporating the software (programming) or hardware to implement the features of audio command. Furthermore, because Ward, Lewis, and Lohmann teach similar method of notification of system alerts, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use known technique of filtering alert condition to determine a notification path associated with the alert condition in Lewis's system to improve similar method of notification of system alerts in Ward's and Lohmann's systems the same way. By using the known technique of filtering alert condition to determine a notification path associated with the alert condition, it would allow filtering of irrelevant alerts and processing of relevant alerts to determine notification path, hence maximizing the performance of reporting failure and the reliability of indicating a potential failure in Ward's and Lohmann's systems. The rationales for the combination of Ward-Lewis-Lohmann as explained above are in accordance with the *KSR International Co. v. Teleflex Inc.* decision. The rationales supporting obviousness as explained above can be applied to support



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combination of Ward, Lewis and Lohmann with various combination of Cote, Jones, Fischer, Miller, Goldberg, "Official Notice", Carleton and Lawson.

61. In reply to argument (5), page 28, lines 3-6 of the appeal brief filed on 1/19/2010, appellant states: "However, nowhere does the cited portion disclose, teach, or suggest constructing an audio notification message by identifying a portion of the message that is likely to be difficult for a user to understand and replacing the identified portion with a more easily understood synonym as recited in Claim 3". In response to appellant's argument that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., that is likely to be difficult for a user to understand; more easily understood) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The entered After Final Amendment filed on 3/30/09 of claim 3 has deleted the phrases "that is likely to be difficult for a user to understand" and "more easily understood". Although the features upon which appellant relies are not recited in the rejected claim 3, however, it is noted that the combination of Ward and Sabourin that teaches "constructing an audio notification message includes identifying a portion of the message that is likely to be difficult for a user to understand and replacing the identified portion with a more easily understood synonym." Specifically, Ward teaches constructing an audio notification message (col. 7, lines 50-57; col. 12, lines 52-64) (generating a voice message comprising the alert). Ward does not teach identifying a portion of the message that is likely to be difficult for a user to understand and replacing the identified portion with a more easily

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understood synonym. Sabourin teaches automatically find word pairs (identifying a portion of the message) that is likely to be difficult for a user to understand (tend to cause high confusability) and replacing the identified portion with a more easily understood synonym (replacing confusable words with non-confusable synonyms) (col. 10, line 64-col. 11, line 3). This means Sabourin is merely relied upon for the teaching of “identifying a portion of the message that is likely to be difficult for a user to understand and replacing the identified portion with a more easily understood synonym.” Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

**62.** In reply to argument (6), Jones teaches assigning the level of responsibility to each of the one or more user based upon the severity of the work repair (work repair associated with a component such as private line [0047], i.e., type of object associated with the alert condition) (page 2, paragraphs 29 and 33; page 9, paragraph 119). This means Jones teaches assigning the level of responsibility to each of the one or more user based upon a type of object associated with the alert condition (work repair associated with a component (e.g., private line) associated with the alert condition). It is noted that the scope and metes and bounds of the phrase “a type of object” covers objects such as “severity of the work repair associated with a component” or any type of objects. Furthermore, on page 32, lines 3-9 of the appeal brief, applicant states: “Additionally, as purportedly disclosing the “object” recited in Applicant's claims, the Examiner relies on the objects disclosed in Ward, which appear to represent system components. (See, e.g.,

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rejection of Claim 1, Office Action at 5). Now, in rejecting Claim 19, the Examiner improperly modifies what is being mapped to the claimed "object"." Examiner disagreed. As explained above, the claimed "object" is mapped to a component in both Ward's (please see In reply to argument (1)) and Jones's references, while the severity is mapped to the claimed "type of object" in Jones's reference.

**(11) *Related Proceeding(s) Appendix***

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

**(12) *Conclusion***

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Philip C Lee/

Primary Examiner, Art Unit 2448

March 8, 2010

Conferees:

/Jeffrey Pwu/

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